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Filed Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
4455 12th Street, SW
Washington, DC 20554

Re: *In the Matter of Petitions for Waiver of Commission's Rules Regarding Access to Numbering Resources*, CC Docket 99-200; *Connect American Fund, et al.*, Further Notice of Proposed Rulemaking on IP-to-IP Interconnection Issues, WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket No. 10-208

Dear Ms. Dortch:

On Wednesday June 6, 2012 John Murdock, President of Bandwidth.com, Inc. ("Bandwidth") and I met with Michael Steffen, Legal Advisor to Chairman Genachowski, Lisa Gelb, Deputy Chief, Wireline Competition Bureau (WCB); Travis Litman, Legal Advisor, (WCB) regarding Bandwidth.com, Inc.'s ("Bandwidth") concern that the Petitions for Waivers of Commission's rules to allow Vonage and other non-carrier providers to obtain numbering resources directly from the North American Numbering Plan Administrator ("NANPA") remain pending.

During the meeting Bandwidth explained in-depth how it has endeavored to follow the regulatory structure the Commission has in place and very recently reaffirmed in the ICC Reform Order and FNPRM.¹ Bandwidth explained how it has invested millions of dollars establishing and operating a nation-wide CLEC entity while growing innovative VoIP businesses during the last four or five years while at the same time Vonage chose instead to invest its time and resources in a waiver of the established rules as non-carrier.

¹ *Connect American Fund, et al.*, Further Notice of Proposed Rulemaking on IP-to-IP Interconnection Issues, WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WT Docket No. 10-208("FNPRM").

Now, seven years after Vonage filed its petition, it appears that the Commission is on the precipice of another Lightsquared scenario² by entertaining the possibility of adopting another ad hoc, undefined waiver procedure instead of a thorough review of the details of a matter that could dramatically impact a critical component of the American economy. An undefined, ad hoc procedural course would be particularly shocking in light of the fact that the Commission only months ago adopted the ICC Reform Order which includes a drawn-out ICC reform schedule and explicit statements that an orderly process was necessary to allow all parties to adjust to the innovations that are being driven by the inevitable adoption of IP technology.³ Bandwidth explained that major carriers are waiting in the wings ready to exploit ensuing uncertainties the moment such waivers are granted.⁴ In fact, in order to ensure its standing in the impending litigious environment, Bandwidth informed the Commission that it too would be filing a Petition for a Waiver. In this regard, Bandwidth discussed the fact that AT&T is presently refusing to pay access charges that are clearly due under the Commission's newly adopted VoIP ICC rules.⁵

Rather than leading the country in a broadband "Race to the Top," granting a waiver to Vonage or others at this moment in time will almost assuredly trigger an industry-wide race to the bottom as carriers and non-carriers alike scramble to self-define their regulatory status according to their needs. Bandwidth also explained at some length that Vonage has failed to demonstrate an adequate grasp on established rules related to number portability and number management. Granting Vonage its waiver would necessitate Vonage obtaining full 10,000 number codes in each and every LATA where it aims to obtain numbering resources. Vonage does not have LRNs today, nor can it port numbers that it may believe are "its LRNs" to itself as a non-carrier and still use them as an LRN.⁶ Bandwidth also highlighted the fact that all other VoIP entities that choose to position themselves in a similar manner will also begin demanding new full 10,000 number codes to establish requisite LRNs in every LATA, if only (ironically) to then be able to participate in number pooling. The fundamental issues that are at the core of the Waiver Petitions are pending in open Commission proceedings or otherwise subject to dispute already. Proceeding

²See: http://www.washingtonpost.com/business/technology/2012/05/19/gIQAGH1qbU_story.html; "The FCC didn't do its homework," said Roger Entner, founder of Recon Analytics, a telecom research and consulting firm. "In its eagerness to quickly create additional competition in the market, it didn't recognize the potential interference and that this would blow up in its face."

³ *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("ICC Reform Order").

⁴ See: Ex Parte Letter from Robert W. Quinn, Jr., SVP, Federal Regulatory, AT&T Services, Inc., to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission (May 21, 2012); See also: Ex Parte Letter from Michael Romano, SVP Policy, NTCA, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission (May 31, 2012).

⁵ 47 C.F.R. § 51.913(b).

⁶ See: Ex Parte Letter from James C. Falvey, Counsel for CLEC Coalition, to Marlene H. Dortch, CC Docket No. 99-200, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45, WC Docket No. 03-109; WT Docket No. 10-208, at 2-5 (May 24, 2012).

with individualized grants of authority to non-carrier providers outside the structure of rulemaking proceedings will not advance the public interest and would be bad public policy.

In accordance with Section 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above proceeding. Should there be any questions or concerns regarding this filing, please direct them to the undersigned.

Sincerely,

/S/
Greg Rogers

cc: Mr. Michael Steffen
Ms. Lisa Gelb
Mr. Travis Litman